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SEC

SERVICE DATE – JANUARY 25, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-156 (Sub-No. 25X)

DELAWARE AND HUDSON RAILWAY COMPANY, INC. — DISCONTINUANCE OF  
TRACKAGE RIGHTS — IN SUSQUEHANNA COUNTY, PA AND BROOME, TIOGA,  
CHEMUNG, STEUBEN, ALLEGANY, LIVINGSTON, WYOMING, ERIE, AND GENESEE  
COUNTIES, NY

MOTION FOR PROTECTIVE ORDER

Decided: January 24, 2005

By motion filed on January 18, 2005, concurrently with its filing of an offer of financial assistance, CNJ Rail Corporation seeks a protective order to safeguard the confidentiality of the net worth statement of Mr. William Strohmeyer. Issuance of the requested protective order will ensure that the confidential information will be used only in connection with this proceeding and not for any other business or commercial purpose.

The motion conforms with the Board's rules at 49 CFR 1104.14 governing requests for protective orders to maintain confidentiality of materials submitted to the Board. Accordingly, the motion for protective order will be granted.

It is ordered:

1. The motion for a protective order is granted, and the Protective Order and Undertaking in the Appendix are adopted. Mr. William Strohmeyer's statement of net worth will be kept under seal and not placed in the public docket or otherwise disclosed to the public.

2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary

APPENDIX

Protective Order

1. For the purpose of this Protective Order, “confidential information” means information contained in Mr. William Strohmeyer’s net worth statement filed as part of the offer of financial assistance in STB Docket No. AB-156 (Sub-No. 25X).
2. The confidential information shall be used for the purpose of this and any related Board proceedings, or any judicial review proceeding arising therefrom, and not for any other business, commercial or competitive purpose.
3. The confidential information shall not be disclosed in any way except to officers of Canadian Pacific Railway Company, Delaware and Hudson Railway Company, Inc., and Norfolk Southern Railway Company, and their counsel and consultants that have signed the attached Undertaking, and the information may be used solely in connection with this and any related Board proceedings, or any judicial review proceedings arising therefrom.
4. Any documents containing the confidential information must be destroyed, and notices of such destruction must be served on the Board at the completion of this and any related Board proceedings, or any judicial review proceedings arising therefrom, whichever comes later.
5. If the Board retains the confidential information, it shall, in order to keep it confidential, treat the information in accordance with the procedures set forth at 49 CFR 1104.14.
6. If Canadian Pacific Railway Company, Delaware and Hudson Railway Company, Inc., and Norfolk Southern Railway Company intend to use the confidential information at hearings in this proceeding or in any related Board proceedings, or in any judicial review proceedings arising therefrom, they shall submit any documents setting forth or revealing such confidential information to the Board, or the reviewing court as appropriate, under seal, and shall accompany such submission with a written request to the Board or the court to (i) restrict attendance at the hearing during discussion of such confidential information, and (ii) restrict access to the portion of the record or briefs reflecting discussion of such confidential information in accordance with this Protective Order.
7. All parties must comply with all of the provisions stated in this Protective Order unless good cause, as determined by the Board, is shown by any party to warrant suspension of any of the provisions herein.

Undertaking

I, \_\_\_\_\_, have read the Protective Order governing the filing of confidential information by CNJ Rail Corporation and Mr. William Strohmeyer in STB Docket No. AB-156 (Sub-No. 25X) and understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any data or information obtained under this Undertaking, or to use or permit the use of any techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and preservation of evidence and argument in STB Docket No. AB-156 (Sub-No. 25X) or any judicial review proceeding taken or filed in connection therewith. I further agree not to disclose any data or information obtained under this Protective Order to any person who is not also bound by the terms of this order and has executed an Undertaking in the form hereof.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking, and that CNJ Rail Corporation and/or Mr. William Strohmeyer, shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name  
Position/Affiliation